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3634

THE UNITED STATES PATENT AND TRADEMARK OFFICE

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#4 response
subspace
(NE)
T-16-02

In re Application of: WINCHESTER, Richard M.)
Filed: 08/27/01)
Serial No.: 09/940,208)
For: Construction Layout Stripping)

Art Unit: 3634
Examiner: Strimbu

Commissioner of Patents and Trademarks
Washington, D.C. 20231

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RESPONSE TO FIRST OFFICE ACTION

The Applicant hereby responds to the first office action in this continuation application. The Examiner states that the affidavits submitted with the application were considered. However, MPEP § 716.01 requires that where the affidavit evidence is “insufficient to overcome the rejection, the examiner must specifically explain why the evidence is insufficient.” The Examiner gives absolutely no explanation whatsoever vis-à-vis the affidavits submitted.¹

SPECIFICATION

The Examiner’s objections to the abstract are noted. A substitute specification is submitted herewith making revisions consistent with the Examiner’s comments. In light of the amended specification, the Applicant respectfully asks the Examiner to withdraw his objection to the abstract.

The Examiner objected that the title of the invention is not descriptive. The Applicant respectfully disagrees,² but nevertheless, in the substitute specification

¹ It is possible that the Examiner did not respond to the affidavits because he felt that the 102 rejection of the claims 1, 6 and 10 did not require response. However, as is made clear in this response, the 102 rejection of those claims is improper. Further, the Examiner rejected all other claims based on 103, and those rejections clearly require a detailed response in light of the affidavits submitted.

² The current title “construction layout stripping” describes the nature and use of the invention. Thus, it appears that the title is proper under MPEP § 606.